

AMENDED IN SENATE APRIL 23, 2007
AMENDED IN SENATE MARCH 19, 2007
AMENDED IN SENATE FEBRUARY 14, 2007

SENATE BILL

No. 33

Introduced by Senator Simitian

(Principal coauthor: Assembly Member Garcia)

(Coauthors: Assembly Members Beall, Horton, Jeffries, Krekorian, and Maze)

December 4, 2006

An act to amend Sections 12810.3 and 23123 of, and to add Section ~~23122~~ 23124 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 33, as amended, Simitian. Vehicles: wireless telephones and mobile service devices.

(1) Under existing law, on and after July 1, 2008, it will be an infraction for any person to drive a motor vehicle while using a wireless telephone, unless that telephone is designed and configured to allow hands-free listening and talking operation, and is used in that manner while driving, except as otherwise provided. A violation point is not given for a violation.

This bill, on and after July 1, 2008, would prohibit a person under the age of 18 years from driving a motor vehicle while using a wireless telephone equipped with a hands-free device or while using a mobile service device, as defined. The prohibition would not apply to such a person using a wireless telephone or a mobile service device for emergency purposes. By creating a new infraction, the bill would impose a state-mandated local program.

The bill would prohibit a law enforcement officer from stopping a vehicle for the sole purpose of determining whether the driver is violating the above prohibition, but would not prohibit a law enforcement officer from stopping a vehicle for the purpose of determining whether the driver is using a wireless telephone without a hands-free device. The bill would prohibit a violation point from being given for a conviction of violating the above prohibition.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12810.3 of the Vehicle Code is amended
2 to read:
3 12810.3. (a) Notwithstanding subdivision (f) of Section 12810,
4 a violation point shall not be given for a conviction of a violation
5 of subdivision ~~(b) of Section 23122 or subdivision (a) of Section~~
6 ~~23123 or subdivision (b) of Section 23124.~~
7 (b) ~~The~~ This section shall become operative on July 1, 2008.
8 ~~SEC. 2. Section 23122 is added to the Vehicle Code, to read:~~
9 ~~23122. (a) This section applies to a person under the age of~~
10 ~~18 years.~~
11 ~~(b) Notwithstanding Section 23123, a person described in~~
12 ~~subdivision (a) shall not drive a motor vehicle while using a~~
13 ~~wireless telephone equipped with a hands-free device or while~~
14 ~~using a mobile service device.~~
15 ~~(c) A law enforcement officer shall not stop a vehicle for the~~
16 ~~sole purpose of determining whether the driver is violating~~
17 ~~subdivision (b).~~
18 ~~(d) Subdivision (c) does not prohibit a law enforcement officer~~
19 ~~from stopping a vehicle for a violation of Section 23123.~~
20 ~~(e) This section does not apply to a person using a wireless~~
21 ~~telephone or a mobile service device for emergency purposes,~~
22 ~~including, but not limited to, an emergency call to a law~~

1 enforcement agency, health care provider, fire department, or other
2 emergency services agency or entity.

3 (f) For the purposes of this section, “mobile service device”
4 includes, but is not limited to, a broadband personal communication
5 device, specialized mobile radio device, handheld device or laptop
6 computer with mobile data access, pager, and two-way messaging
7 device.

8 (g) This section shall become operative on July 1, 2008.

9 ~~SEC. 3.~~

10 SEC. 2. Section 23123 of the Vehicle Code, as added by
11 Section 5 of Chapter 290 of the Statutes of 2006, is amended to
12 read:

13 23123. (a) A person shall not drive a motor vehicle while using
14 a wireless telephone unless that telephone is specifically designed
15 and configured to allow hands-free listening and talking, and is
16 used in that manner while driving.

17 (b) Notwithstanding subdivision (a) of Section 42001 or any
18 other provision of law, a violation of this section is an infraction
19 punishable by a base fine of twenty dollars (\$20) for a first offense
20 and fifty dollars (\$50) for each subsequent offense.

21 (c) This section does not apply to a person using a wireless
22 telephone for emergency purposes, including, but not limited to,
23 an emergency call to a law enforcement agency, health care
24 provider, fire department, or other emergency services agency or
25 entity.

26 (d) This section does not apply to an emergency services
27 professional using a wireless telephone while operating an
28 authorized emergency vehicle, as defined in Section 165, in the
29 course and scope of his or her duties.

30 (e) This section does not apply to a person driving a schoolbus
31 or transit vehicle that is subject to Section 23125.

32 (f) This section does not apply to a person while driving a motor
33 vehicle on private property.

34 (g) This section shall become operative on July 1, 2011.

35 SEC. 3. Section 23124 is added to the Vehicle Code, to read:

36 23124. (a) This section applies to a person under the age of
37 18 years.

38 (b) Notwithstanding Section 23123, a person described in
39 subdivision (a) shall not drive a motor vehicle while using a

1 *wireless telephone equipped with a hands-free device or while*
2 *using a mobile service device.*

3 *(c) A law enforcement officer shall not stop a vehicle for the*
4 *sole purpose of determining whether the driver is violating*
5 *subdivision (b).*

6 *(d) Subdivision (c) does not prohibit a law enforcement officer*
7 *from stopping a vehicle for a violation of Section 23123.*

8 *(e) This section does not apply to a person using a wireless*
9 *telephone or a mobile service device for emergency purposes,*
10 *including, but not limited to, an emergency call to a law*
11 *enforcement agency, health care provider, fire department, or*
12 *other emergency services agency or entity.*

13 *(f) For the purposes of this section, “mobile service device”*
14 *includes, but is not limited to, a broadband personal*
15 *communication device, specialized mobile radio device, handheld*
16 *device or laptop computer with mobile data access, pager, and*
17 *two-way messaging device.*

18 *(g) This section shall become operative on July 1, 2008.*

19 SEC. 4. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.